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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

MANSOUR ALIHOSSEINI,  
 Plaintiff,

v.

GERARD HEINAUER, Director, USCIS  
 Nebraska Service Center, District Office;  
 EMILIO T. GONZALEZ, Director, USCIS  
 U.S. Citizenship and Immigration Services;  
 MICHAEL CHERTOFF, Secretary,  
 Department of Homeland Security;  
 ROBERT S. MUELLER, Director,  
 Federal Bureau of Investigation;  
 PETER D. KEISLER, Acting U.S. Attorney  
 General,  
 Defendants.

No. C 07-5692 JSW

STIPULATION TO EXTEND DATE OF  
 CASE MANAGEMENT CONFERENCE;  
 and ~~PROPOSED~~ ORDER

The Plaintiff, by and through his attorney of record, and Defendants, by and through their attorneys of record, hereby stipulate, subject to approval of the Court, to extend the date of the case management conference, which is currently scheduled for February 15, 2008, in light of the following:

1. The Plaintiff filed an action on November 8, 2007, asking this Court to direct the United States Citizenship and Immigration Services (USCIS) to adjudicate his I-485 application.
2. On February 4, 2008, USCIS has changed its policy regarding delayed I-485 applications.

1 The attached memo states that all I-485 applications that have been pending for more than 180  
2 days will be reviewed. If during this review it appears that the applicant is eligible "but for" the  
3 pending FBI name check, the application will be processed.

4 3. Therefore, in order to allow sufficient time for USCIS to review Plaintiff's case, the parties  
5 hereby respectfully ask this Court to extend the dates in the Court's scheduling order as follows:

6 Last day to file/serve Joint Case Management Statement: April 11, 2008

7 Case Management Conference: April 18, 2008 at 1:30 p.m.

8 Date: February 8, 2008

Respectfully submitted,

9 JOSEPH P. RUSSONIELLO  
10 United States Attorney

11 /s/  
12 EDWARD A. OLSEN<sup>1</sup>  
13 Assistant United States Attorney  
14 Attorneys for Defendant

15 Date: February 8, 2008

16 /s/  
17 ROBERT B. JOBE  
18 Attorney for Plaintiff

19 **ORDER**

20 Pursuant to stipulation, IT IS SO ORDERED.

21 Date: February 11, 2008

22   
23 JEFFREY S. WHITE  
24 United States District Judge  
25  
26

27 <sup>1</sup> I, Edward Olsen, hereby attest that I have on file all holograph signatures for any  
28 signatures indicated by a "conformed" signature (/s/) within this efiled document.

U.S. Citizenship  
and Immigration  
Services

FEB 4 - 2008

HQ 70/23 &amp; 70/28.1

## Interoffice Memorandum

TO: Field Leadership

FROM: Michael Aytes   
Associate Director, Domestic Operations

SUBJECT: Revised National Security Adjudication and Reporting Requirements

**Background**

U.S. Citizenship and Immigration Services (USCIS) conducts background checks on all applicants, petitioners, and beneficiaries seeking immigration benefits. This is done both to enhance national security and to ensure the integrity of the immigration process. USCIS has previously mandated that FBI name checks be completed and resolved before any positive adjudication can proceed on certain form types. This memorandum modifies existing guidance for applications where statutory immigration provisions allow for the detention and removal of an alien who is the subject of actionable information that is received from the FBI or other law enforcement agencies after approval of the application.

USCIS is issuing revised guidance in response to recommendations of the DHS Office of Inspector General (OIG-06-06) regarding the need to align the agency's background and security check policies with those of U.S. Immigration and Customs Enforcement (ICE). The *Background and Security Investigations in Proceedings Before Immigration Judges and the Board of Immigration Appeals* regulations prevent immigration judges and the Board of Immigration Appeals (BIA) from granting benefits to aliens before DHS confirms that all background and security checks have been completed. See 8 C.F.R. § 1003.47(g); 8 C.F.R. § 1003.1(d)(6)(i). In the context of removal proceedings, ICE has determined that FBI fingerprint checks and Interagency Border Inspection Services (IBIS) checks are the required security checks for purposes of the applicable regulations. In the unlikely event that FBI name checks reveal actionable information after the immigration judge grants an alien permanent resident status, DHS may detain and initiate removal proceedings against the permanent resident. See 8 U.S.C. § 1227; see also 8 U.S.C. § 1256 (allowing DHS to rescind an alien's adjustment of status).

## **Revised National Security Adjudication and Reporting Requirements**

Page 2

### **Revised Guidance**

A definitive FBI fingerprint check and the IBIS check must be obtained and resolved before an Application for Adjustment of Status (I-485), Application for Waiver of Ground of Inadmissibility (I-601), Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act (I-687), or Application to Adjust Status from Temporary to Permanent Resident (Under Section 245A of Public Law 99-603) (I-698) is approved. USCIS will continue to initiate FBI name checks when those applications are received. Where the application is otherwise approvable and the FBI name check request has been pending for more than 180 days, the adjudicator shall approve the I-485, I-601, I-687, or I-698 and proceed with card issuance. The FBI has committed to providing FBI name check results within this timeframe.

There is no change in the requirement that FBI fingerprint check, IBIS check and FBI name check results be obtained and resolved prior to the adjudication of an Application for Naturalization (N-400).

Pending further guidance regarding post-audit reporting and tracking requirements and modifications to associated quality assurance procedures, applications approved pursuant to this memorandum shall be held at the adjudicating office. If derogatory or adverse information is received from the FBI after the application is approved, USCIS will determine if rescission or removal proceedings are appropriate and warranted.

Subject to the reporting requirements set forth in the February 16, 2007, memorandum titled "FBI Name Checks Policy and Process Clarification for Domestic Operations," an application or petition may be denied, dismissed, administratively closed, withdrawn, or referred to the Immigration Court at any time.

Questions regarding this memorandum should be directed through appropriate supervisory and operational channels. Local offices should work through their chain of command.

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